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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,525	01/14/2004	Donald W. Gordon	035-1-008	5578
27469	7590	03/26/2009	EXAMINER	
Tjrope North & Western			DONNELLY, JEROME W	
P.O. BOX 1219			ART UNIT	PAPER NUMBER
SANDY, UT 84091-1219			3764	
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			03/26/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/758,525	GORDON, DONALD W.
	Examiner Jerome W. Donnelly	Art Unit 3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10/08/08

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) \_\_\_\_\_ is/are pending in the application. 1-6, 8-23 25-28, 30-35 and 37

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed. 9-12, 15 and 21-23

6) Claim(s) \_\_\_\_\_ is/are rejected. 1-6, 8, 16-20 25-27 30 32 - 35 and 37

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**JEROME DONNELLY**  
**PRIMARY EXAMINER**

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

In response to applicants remarks dated 10/08/08 the examiner responds as follows:

Claims 1-6, 8-23, 25-28, 30-35 and 37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claims 1 and 5 self-supporting is not supported in the specification.

In regard to claim 25 the examiner notes the applicants attempt to further clarify that his flexible material, "surround the periphery of an individual play area".

The amendment directed towards "surrounds the... play area" is still considered to be met by the prior art of record.

Claims 9-12, 15 and 21-23 are allowed. Claims 13, 14, 28 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8, 16-19, 25-27, 32-34 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nissen.

The above claims are rejected for the same reasons as set forth in the rejection of the same claims dated 7/22/08.

Nissen discloses a device of claim 37 wherein elements 44 are considered as a flexible mounting frame and elements 46 as flexible material units.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nissen view of Arsenault.

Claim 30 is rejected for the same reasons as set forth in the rejection of the same claims dated 7/22/08.

Claims 20, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nissen in view of Wang et al.

Claims 20, 35 and 36 are rejected for the same reasons as set forth in the rejection of the same claims dated 7/22/08.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571)272-4975.

em/Jerome Donnelly

March 16, 2009

JEROME DONNELLY  
PRIMARY EXAMINER

